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UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH  
CENTRAL DIVISION

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DONALD TROY HORTON,

Plaintiff,

v.

UNITED STATES OF AMERICA;  
JOSEPH R. BIDEN; KAMALA HARRIS;  
MERRICK GARLAND; ANTHONY J.  
BLINKEN; and DEIDRE HENDERSON,

Defendants.

**MEMORANDUM DECISION AND  
ORDER PERMITTING AMENDED  
COMPLAINT AND TEMPORARILY  
GRANTING MOTION TO WAIVE  
FILING FEE (DOC. NO. 2)**

Case No. 2:24-cv-00602

District Judge Jill N. Parrish

Magistrate Judge Daphne A. Oberg

Plaintiff Donald Troy Horton filed this action without an attorney and without paying the filing fee.<sup>1</sup> The court temporarily granted Mr. Horton's motion to proceed without paying the fee and stayed the case pending review.<sup>2</sup> As explained below, because Mr. Horton's complaint fails to state a plausible claim for relief, Mr. Horton is permitted to file an amended complaint by **December 16, 2024**. The court again temporarily grants the motion to waive the filing fee<sup>3</sup> pending screening of the amended complaint, if any is filed.

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<sup>1</sup> (See Compl., Doc. No. 1; Mot. for Leave to Proceed Without Paying the Filing Fee, Doc. No. 2.)

<sup>2</sup> (See Order Temporarily Granting Mot. to Proceed Without Paying the Filing Fee and Notice of Screening Under 28 U.S.C. § 1915, Doc. No. 6.)

<sup>3</sup> (Doc. No. 2.)

### LEGAL STANDARDS

When a court authorizes a party to proceed without paying a filing fee, it must dismiss the case if it determines the complaint “fails to state a claim on which relief may be granted,” or “seeks monetary relief against a defendant who is immune from such relief.”<sup>4</sup> In making this determination, the court uses the standard for analyzing a motion to dismiss for failure to state a claim under Rule 12(b)(6) of the Federal Rules of Civil Procedure.<sup>5</sup> To avoid dismissal under Rule 12(b)(6), a complaint must allege “enough facts to state a claim to relief that is plausible on its face.”<sup>6</sup> The court accepts well-pleaded factual allegations as true and views the allegations in the light most favorable to the plaintiff, drawing all reasonable inferences in the plaintiff’s favor.<sup>7</sup> But the court need not accept a plaintiff’s conclusory allegations as true.<sup>8</sup> “[A] plaintiff must offer specific factual allegations to support each claim.”<sup>9</sup>

Because Mr. Horton proceeds without an attorney (*pro se*), his filings are liberally construed and held “to a less stringent standard than formal pleadings drafted by lawyers.”<sup>10</sup> Still, *pro se* plaintiffs must “follow the same rules of procedure that govern

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<sup>4</sup> 28 U.S.C. § 1915(e)(2)(B)(ii)–(iii).

<sup>5</sup> *Kay v. Bemis*, 500 F.3d 1214, 1217 (10th Cir. 2007).

<sup>6</sup> *Hogan v. Winder*, 762 F.3d 1096, 1104 (10th Cir. 2014) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 547 (2007)).

<sup>7</sup> *Wilson v. Montano*, 715 F.3d 847, 852 (10th Cir. 2013).

<sup>8</sup> *Hall v. Bellmon*, 935 F.2d 1106, 1110 (10th Cir. 1991).

<sup>9</sup> *Kan. Penn Gaming, LLC v. Collins*, 656 F.3d 1210, 1214 (10th Cir. 2011).

<sup>10</sup> *Hall*, 935 F.2d at 1110.

other litigants.”<sup>11</sup> For instance, a pro se plaintiff “still has the burden of alleging sufficient facts on which a recognized legal claim could be based.”<sup>12</sup> While the court must make some allowances for a pro se plaintiff’s “failure to cite proper legal authority, his confusion of various legal theories, his poor syntax and sentence construction, or his unfamiliarity with pleading requirements,”<sup>13</sup> the court “will not supply additional factual allegations to round out a plaintiff’s complaint or construct a legal theory on a plaintiff’s behalf.”<sup>14</sup>

### MR. HORTON’S COMPLAINT

Mr. Horton’s complaint consists of a form civil rights complaint filled out by hand, along with six exhibits including various bank records, a police complaint Mr. Horton filed, an “Affidavit of Repudiation a.k.a. Revocation of Citizenship,” a “Declaration of Trust Horton Familia in GOD I Trust,” a business card for a United States Congressman’s Constituent Services Manager, and a “NGO New Civil Society Flag.”<sup>15</sup> Because Mr. Horton’s pleadings are liberally construed, and attachments to a complaint

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<sup>11</sup> *Garrett v. Selby, Connor, Maddux & Janer*, 425 F.3d 836, 840 (10th Cir. 2005) (citation omitted).

<sup>12</sup> *Jenkins v. Currier*, 514 F.3d 1030, 1032 (10th Cir. 2008) (internal quotation marks omitted).

<sup>13</sup> *Hall*, 935 F.2d at 1110.

<sup>14</sup> *Smith v. United States*, 561 F.3d 1090, 1096 (10th Cir. 2009) (citation omitted).

<sup>15</sup> (See Exs. 1, 2, 4, 5, 6, 7 to Compl., Doc. No. 1-1.) Mr. Horton’s exhibits are numbered one through seven, with the number three omitted.

may be considered in determining whether it states a plausible claim for relief,<sup>16</sup> all these documents are considered in evaluating the sufficiency of Mr. Horton's claims.

Mr. Horton brought this action against the United States of America, Joseph R. Biden, Kamala Harris, Merrick Garland, Anthony J. Blinken, and Deidre Henderson.<sup>17</sup>

Mr. Horton checked boxes on his form civil rights complaint indicating he is bringing claims under *Bivens* and 42 U.S.C. § 1983, alleging violations of the following right(s):

"Birthright to pursuit of life, liberty and happiness under laws of god to be unfettered + free of all gov common law, maritime law, rule of law and color of law being conducted in these United States."<sup>18</sup> Mr. Horton describes the facts underlying his claims as follows:

After being forced into early retirement by gov, I started/founded + co-founded 2 NGO. The USA gov will not allow my or[d]inary (non-corp) NGO to open a bank account, so our 1st donor Mrs. Joy Faisal c/o her attorney barrister Nansoa Ha wired via SWIFT MT103 \$4,500,000 USD to my personal acct on 23 July 2024. But gov via fedbank confiscated these funds and did not permit transfer to my account. MACU (my bank), SWIFT, NYBank of Mellon (corresponding bank) will not track trace or complete the transfer. Our NGO issued 1 trillion USD worth of NGO coins to exchange for donor funds. Gov is blocking all opp-[illegible.]<sup>19</sup>

Mr. Horton alleges he suffered "financial injury" in the form of "1 trillion USD worth of NGO coins on Blockchain Exchange," and "real financial + personal injury"

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<sup>16</sup> See *Smith*, 561 F.3d at 1098 ("In evaluating a Rule 12(b)(6) motion to dismiss, courts may consider not only the complaint itself, but also attached exhibits, and documents incorporated into the complaint by reference." (citation omitted)).

<sup>17</sup> (See Compl., Doc. No. 1.)

<sup>18</sup> (*Id.* at 4–5); see also *Bivens v. Six Unknown Named Agents*, 403 U.S. 388 (1971); 42 U.S.C. § 1983.

<sup>19</sup> (Compl., Doc. No. 1 at 5.)

because the “gov will not permit” his “NGO coins” to be exchanged for other currencies.<sup>20</sup> Mr. Horton seeks the following relief:

1. Immediate release of \$4,500,000 USD sent to be delivered to my acct immediately w/out delay.
2. I demand “written” response to accept and acknowledge my right to exist as a loving living soul outside the gov systems to enslave by contract and travel unfettered [sic] and free world wide no visa required for me and all my donors.
3. I demand financial compensation + damages allowed for hardship both financially + emotionally knowing the truth + facts my gov is in the business of for profit enslave trade.<sup>21</sup>

### ANALYSIS

As explained below, because Mr. Horton fails to state a claim, he will be given an opportunity to amend his complaint.

At the outset, even construing Mr. Horton’s complaint liberally, it is difficult to discern what claims he is attempting to bring or the underlying facts on which any cognizable claim could be based. Mr. Horton’s complaint consists of largely incoherent allegations that the “gov” did not permit Mr. Horton’s “NGO coin” transfers and did not respond to Mr. Horton’s “affidavit of repudiation of citizenship.”<sup>22</sup> Mr. Horton does not explain how these vague factual assertions give rise to a cognizable cause of action. Mr. Horton’s exhibits are likewise unintelligible—they consist of seemingly random documents and Mr. Horton does not explain their relevance.<sup>23</sup> For these reasons, Mr.

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<sup>20</sup> (*Id.* at 6.)

<sup>21</sup> (*Id.*)

<sup>22</sup> (*See id.* at 4–6.)

<sup>23</sup> (*See, e.g.*, Ex. 1 to Compl., “Donor’s Bank Funds,” Doc. No. 1-1 at 1–14 (consisting of various financial records from a Cambodian bank, a photocopy of Mr. Horton’s passport, and an “ESGTA Letter of Cooperation”); Ex. 4 to Compl., “Affidavit of Repudiation a.k.a.

Horton fails to state a claim.<sup>24</sup> Mr. Horton's complaint also violates Rule 8 of the Federal Rules of Civil Procedure, which requires that a complaint contain "a short and plain statement of the claim showing that the pleader is entitled to relief," and that "[e]ach allegation must be simple, concise, and direct."<sup>25</sup>

To the extent Mr. Horton's complaint is decipherable, it still fails to state a claim. Mr. Horton checked boxes on his form civil rights complaint indicating he is bringing claims under *Bivens* and 42 U.S.C. § 1983, which provide recovery mechanisms for violations of federal rights in certain circumstances.<sup>26</sup> First, the United States of America (which Mr. Horton names as a defendant) is not a proper *Bivens* or § 1983

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Revocation of Citizenship," Doc. No. 1-1 at 17–56 ("Therefore, in order to secure the Blessing of Liberty to my posterity and myself, to re-acquire my Birthright as 'one' of a member of the Sovereign Social Body of 'We the People,' I hereby Asseverate, Repudiate and Revoke my Citizenship, if any ever existed, with the Legal fiction known as the 'UNITED STATES' Government (Corporation), USA Inc, and any and all subsidiary corporations both known (STATE, COUNTY, CITY,) and unknown under its control.").

<sup>24</sup> See *Nasious v. Two Unknown B.I.C.E. Agents*, 492 F.3d 1158, 1163 (10th Cir. 2007). ("[T]o state a claim in federal court, a complaint must explain what each defendant did to him or her; when the defendant did it; how the defendant's action harmed him or her; and, what specific legal right the plaintiff believes the defendant violated.").

<sup>25</sup> See Fed. R. Civ. P. 8(a)(2), 8(d)(1); see also *Padilla v. Mnuchin*, 802 F. App'x 426, 427 (10th Cir. 2020) (unpublished) ("A district court may dismiss an action under Rule 41(b) for failure to comply with Rule 8.").

<sup>26</sup> See *Chapoose v. Hodel*, 831 F.2d 931, 935 (10th Cir. 1987) ("A *Bivens* action seeks to impose personal liability and damages on a federal official for the violation of a constitutional right."); *Watson v. Kansas City*, 857 F.2d 690, 694 (10th Cir. 1988) ("To establish a cause of action under [§] 1983, a plaintiff must allege (1) deprivation of a federal right by (2) a person acting under color of state law").

defendant—the United States is protected by sovereign immunity from such claims.<sup>27</sup>

As to the remaining defendants, Mr. Horton does not identify any specific actions they have taken—his allegations are targeted generally at the “gov.”<sup>28</sup> Similarly, Mr. Horton does not identify a cognizable right.<sup>29</sup> Accordingly, Mr. Horton fails to state a claim under *Bivens* or § 1983.

Finally, on the civil cover sheet submitted with his complaint, Mr. Horton checked boxes indicating he is bringing contract, real property, personal injury, Americans with Disabilities Act, and “Banks and Banking” claims.<sup>30</sup> But Mr. Horton does not reference or clarify these claims in his complaint, or otherwise provide any legal or factual basis supporting them.<sup>31</sup>

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<sup>27</sup> See *Clark v. Lynch*, 213 F. Supp. 3d 1347, 1351 (D. Kan. 2016) (noting the United States has not waived sovereign immunity for § 1983 claims); *Smith*, 561 F.3d at 1099 (noting “*Bivens* claims cannot be asserted directly against the United States”).

<sup>28</sup> (See generally Compl., Doc. No. 1); see also *Pahls v. Thomas*, 718 F.3d 1210, 1226 (10th Cir. 2013) (“[I]t is incumbent upon a plaintiff to ‘identify specific actions taken by particular defendants’ in order to make out a viable § 1983 or *Bivens* claim.” (citing *Tonkovich v. Kan. Bd. of Regents*, 159 F.3d 504, 532 (10th Cir. 1998); *Nasious*, 492 F.3d at 1163 (“[T]o state a claim in federal court, a complaint must explain what each defendant did to him or her; when the defendant did it; how the defendant’s action harmed him or her; and, what specific legal right the plaintiff believes the defendant violated.”)).

<sup>29</sup> (See Compl., Doc. No. 1 at 4 (alleging Defendants violated Mr. Horton’s “[b]irthright to pursuit of life, liberty and happiness under laws of god to be unfettered + free of all gov common law, maritime law, rule of law and color of law being conducted in these United States”).) It is impossible to discern what constitutional or statutory right Mr. Horton is referring to.

<sup>30</sup> (See Civ. Cover Sheet, Doc. No. 1-2.)

<sup>31</sup> See also *Cordero v. Froats*, No. 13-031, 2016 U.S. Dist. LEXIS 144976, at \*4 (D.N.M. Oct. 19, 2016) (unpublished) (“The civil cover sheet is an administrative aid to the court clerk and is not typically considered to be part of a party’s pleading.” (citing *Favors v. Coughlin*, 877 F.2d 219, 220 (2d Cir. 1989))).

Because Mr. Horton's complaint fails to state a cognizable claim, it is subject to dismissal.<sup>32</sup> Nevertheless, "[d]ismissal of a pro se complaint for failure to state a claim is proper only where it is obvious that the plaintiff cannot prevail on the facts he has alleged and it would be futile to give him an opportunity to amend."<sup>33</sup> Accordingly, Mr. Horton is given an opportunity to amend his complaint.

### CONCLUSION

1. Mr. Horton may file an amended complaint by **December 16, 2024**. The words "Amended Complaint" should appear in the caption of the document.

2. Mr. Horton is advised that an amended complaint will completely replace all prior versions of the complaint. Claims which are not realleged in the amended complaint will be deemed abandoned.<sup>34</sup>

3. Once filed, the court will screen the amended complaint under 28 U.S.C. § 1915(e) and Rule DUCivR 3-2(b) of the Local Rules of Civil Practice.<sup>35</sup>

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<sup>32</sup> See 28 U.S.C. § 1915(e)(2)(B)(ii).

<sup>33</sup> *Kay*, 500 F.3d at 1217 (citation omitted).

<sup>34</sup> See *Pierce v. Williams*, No. CIV 20-284, 2020 U.S. Dist. LEXIS 185074, at \*6 (E.D. Okla. Oct. 6, 2020) (unpublished) ("An amended complaint completely replaces the original complaint and renders the original complaint of no legal effect." (citing *Miller v. Glanz*, 948 F.2d 1562, 1565 (10th Cir. 1991))).

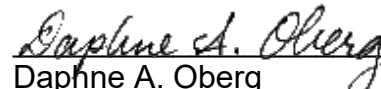
<sup>35</sup> See DUCivR 3-2(b), available at <https://www.utd.uscourts.gov/sites/utd/files/Civil%20Rules%20Final%202023.pdf> [<https://perma.cc/YJY4-VSML>].

4. Other than an amended complaint, the restriction on filing other documents set forth in the court's August 22, 2024 order<sup>36</sup> remains in place.

5. Failure to file an amended complaint may result in dismissal of this action.

DATED this 25th day of November, 2024.

BY THE COURT:

  
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Daphne A. Oberg  
United States Magistrate Judge

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<sup>36</sup> (Doc. No. 6.)